



WESTFIELD-WASHINGTON

BOARD OF ZONING APPEALS

October 12, 2010

1010-VU-04

Exhibit 1

PETITION NUMBER:	1010-VU-04
SUBJECT SITE ADDRESS:	2719 South 1200 East
APPELLANT:	Garland and Jean Elmore
REQUEST:	Variance of Use to allow a second residence on a property located in the AG-SF1 District (WC 16.04.030 B1).
CURRENT ZONING:	AG-SF1
CURRENT LAND USE:	Residential
APPROXIMATE ACREAGE:	9.52 acres
RELATED CASES:	0806-VS-08
EXHIBITS:	1. Staff Report 2. Aerial Location Map 3. Appellant's Application
STAFF REVIEWER:	Kevin M. Todd, AICP

PETITION HISTORY

This petition will receive a public hearing at the October 12, 2010 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The 9.52 acre subject property (the "Property") was split from the parent parcel in 1996. On June 3, 2008, the Board of Zoning Appeals approved a variance request to allow the principal building on the Property to be located behind an accessory structure. A portion of the accessory structure was used as a temporary residence for the Appellants while their principal residence (the "Principal Residence") was being constructed on the Property in 2008.

ANALYSIS

The Appellants are requesting to use an existing apartment (the "Second Dwelling") as a second residence on the Property. The Second Dwelling is approximately 1,200 square feet in size and is attached to a pole barn structure (the "Accessory Structure"). The proposal does not contemplate additional improvements to be made for the Second Dwelling or Accessory Structure. The Accessory Structure is difficult to see from the street, due to the topography of the area. The Property is accessed by a single driveway, which is shared by the Principal Residence and the Second Dwelling. The Second Dwelling is served by its own well and septic system. Nearby property is zoned AG-SF1 and includes agricultural and residential uses. The area has a rural character.

PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under Ind. Code 36-7-4-918.4 only upon a determination in writing that:



STANDARDS FOR USE VARIANCE REQUEST

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that allowing a second residence on the Property would be injurious to the public health, safety, morals, and general welfare of the community. The Second Dwelling currently exists and is periodically used as a guest house.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely that the use and value of adjacent property will be affected in a substantially adverse manner. The Second Dwelling currently exists and is used periodically by guests. Feedback from adjacent property owners should provide insight about the impact on adjacent properties.

3. The need for the variance of use arises from some condition particular to the property involved:

Finding: The Property is currently zoned for a single-family residential use and is currently being used in that manner. The request to add a second residential unit on the Property is based on the fact that the Second Dwelling was already on the Property when the Appellants purchased the Property. The Appellants state in their application that they would like to utilize the Second Dwelling as a source of income and as a home for potential future caretakers.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought:

Finding: Strictly applying the zoning ordinance would not permit the requested use. The Property is currently zoned for a single-family residential use and is currently being used in that manner. The BZA should determine whether or not the inability to use the Second Dwelling as a second residence on the Property constitutes an unnecessary hardship in the use of the Property?

5. The approval does not interfere substantially with the comprehensive plan:

Finding: The Property is located in the “Rural Southwest” land use classification, as identified in the Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”). The Comprehensive Plan encourages single-family dwellings on large lots in the Rural Southwest area. It also encourages the continuation of the rural character through agricultural uses, equestrian uses, large lot subdivisions and conservation subdivisions. The proposal would utilize an existing structure as a dwelling unit and it would not add a new driveway cut to the adjacent roadway.

It is not uncommon to have a second dwelling (or “stable quarters”, or similar) for “ranch hands” on an active agricultural property. The proposed use (second residence) is not any different than having a “stable quarters”; however, the reasons for having the proposed use are different than having a second dwelling on an agricultural property. Nothing in the Comprehensive Plan specifically addresses this issue, and the BZA should determine whether or not the proposal substantially interferes with the Comprehensive Plan.



RECOMMENDATIONS

1. If the BZA determines that there is an unnecessary hardship AND that the proposal is consistent with the Comprehensive Plan, then approve this request;
2. If the BZA determines that there is not an unnecessary hardship OR that the proposal is inconsistent with the Comprehensive Plan, then deny this request.

KMT